

### **341.360 Conditions of disqualification for benefits.**

No worker may be paid benefits for any week of unemployment:

- (1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the Office of Employment and Training, Department of Workforce Investment, in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection, a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;
- (2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States; but if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or
- (3)
  - (a) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in KRS 341.067(2) or in an educational institution as defined in KRS 341.067(4), begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or
  - (b) Which, when based on service other than as defined in paragraph (a) of this subsection, in an institution of higher education or an educational institution, as defined in KRS 341.067(2) or (4), begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or
  - (c) Which, when based on service in any capacity defined in paragraphs (a) and (b) of this subsection, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a

reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or

- (d) Based on service in any capacity defined in paragraph (a) or (b) of this subsection when such service is performed by the worker in an institution of higher education or an educational institution, as defined in KRS 341.067(2) or (4), while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in paragraphs (a), (b), and (c) of this subsection. For purposes of this paragraph, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions.
- (4) Except that any benefits paid to a worker based on service other than as defined in subsection (3)(a) of this section performed in an institution of higher education as defined in KRS 341.067(2) shall be deemed to have been paid as a result of Office of Employment and Training, Department of Workforce Investment, error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subsection (3)(b) of this section.
- (5) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).
- (6)
  - (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).
  - (b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.
  - (c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.
- (7) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 211, sec. 147, effective July 12, 2006. -- Amended 1992 Ky. Acts ch. 133, sec. 2., effective July 14, 1992. -- Amended 1984 Ky. Acts ch. 1, sec. 1, effective July 13, 1984. -- Amended 1980 Ky. Acts ch. 385, sec. 5, effective July 1, 1980. -- Amended 1978 Ky. Acts ch. 389, sec. 22, effective July 1, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(23). -- Amended 1972 Ky. Acts ch. 21, sec. 26. -- Amended 1950 Ky. Acts ch. 206, sec. 1. -- Amended 1942 Ky. Acts ch. 20, secs. 4 and 10. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4748g-9.